



**GENERAL TERMS AND CONDITIONS
APPLICABLE TO INFORMATION AND
COMMUNICATION TECHNOLOGY
CONTRACTS**



TABLE OF CONTENTS

CHAPTER 1: OVERVIEW.....	3
CHAPTER 2: PRICES AND SETTLEMENT OF ACCOUNTS	11
CHAPTER 3: DEADLINES	15
CHAPTER 4: PERFORMANCE	18
CHAPTER 5: CONFIRMATION OF PERFORMANCE OF THE SERVICES - WARRANTY	22
CHAPTER 6: PROVISIONS SPECIFIC TO MAINTENANCE, THIRD-PARTY APPLICATIONS MAINTENANCE AND MANAGED OPERATIONS.....	28
CHAPTER 7: USE OF THE RESULTS.....	31
CHAPTER 6: TERMINATION	43
CHAPTER 7: DISPUTES AND LITIGATION	48



CHAPTER 1: OVERVIEW

ARTICLE 1: SCOPE

The provisions of these General Terms and Conditions applicable to the information and communication contracts of Bpifrance (and its subsidiaries), a public limited company with capital of €20,981,406,140, whose registered office is located at 27-31 avenue du Général Leclerc, Maisons Alfort (94710) France, registered in the Créteil Trade and Companies Register under number 507 523 678, apply to the contracts expressly referred to herein.

These contracts may provide for exemptions from some of these provisions.

ARTICLE 2: DEFINITIONS

For the purposes of this document:

- the “Client”, namely the company Bpifrance or one of its subsidiaries, is the entity that enters into the contract with the Contract Holder.
- The “Contract Holder” is the economic operator who concludes the contract with the Client. In the case of a consortium of economic operators, the “Contract Holder” shall designate the consortium, represented, where applicable by its representative.
- “Notification” is the act of bringing information or a decision to the knowledge of the contracting party or parties in any physical or non-physical format that allows for the date of receipt thereof to be determined with certainty. A date of receipt indicated on a receipt may be considered the date of notification.
- “Services” refers to, according to the purpose of the contract, the supplies or services, specifically IT and telecommunications services or supplies.
- The “service order” is the Client’s decision specifying the procedures for performing the services provided for in the contract.
- Acceptance is the decision, taken after inspections, whereby the Client acknowledges the unreserved compliance of the services with the provisions of the contract. The acceptance decision constitutes a certificate of service completed and constitutes the starting point for the warranty periods.
- Deferral is the decision taken by the Client when it considers that deliverables are acceptable subject to certain modifications by the Contract Holder,
- Reduction is the decision taken by the Client to reduce the amount of the services to be paid to the Contract Holder, when the services do not fully meet the requirements of the contract, but may be accepted as they stand.
- Rejection is the decision taken by the Client indicating that the services cannot be accepted, even after deferral or with a reduction.
- Software is a work consisting of a set of programmes, processes and rules relating to the operation of a set of data processing and the related documentation. The term software used alone in this document refers to either standard software or specific software.
- Standard software is software designed by the Contract Holder or a third party publisher, to be provided to multiple users for the purpose of performing the same function.



- Specific software is software specially developed by the Contract Holder to provide a customised solution to the Client's specific needs. It may be an original work created *ex nihilo*, or the adaptation, by means of specific developments, of pre-existing works (standard software or specific software),
- The application is a set of software solutions necessary for the execution of a given task.

ARTICLE 3: GENERAL OBLIGATIONS OF THE PARTIES

3.1. Form of notifications and information

Notification of the Contract Holder of the decisions or information of the Client from which a time limit is triggered, is carried out:

- either directly to the Contract Holder, or to its duly qualified representative, against written receipt,
- either by paperless correspondence or on electronic media. The conditions of use of paperless means or electronic media are determined in the specific contract documents,
- or by any other means that allows certification of the date of receipt of the decision or information.

This notification may be made at the address of the Contract Holder mentioned in the specific contract documents or, failing that, at its registered office, unless these documents require the Contract Holder to have its place of residence established elsewhere.

In the case of a consortium, the notification shall be made to the representative for the entire consortium.

3.2. Calculation of the deadlines for performance of the services

3.2.1. Any deadline mentioned in the contract starts to run at midnight, the day after the day on which the act which served as the starting point for this deadline occurred.

The applicable dates and times are those used by the specific contract documents for deliveries or performance of the services.

3.2.2. When the deadline is set in days, it is understood in calendar days and it expires at midnight on the last day of the period.

Comments: The time zone used is that of the delivery or the performance of the service. A deadline set in calendar days includes Saturdays, Sundays and public holidays.

3.2.3. When the deadline is set in months, it is counted from calendar day to calendar day. If there is no corresponding calendar day in the month in which the deadline ends, it shall expire on the last day of said month, at midnight.

3.2.4. When the last day of the deadline is a Saturday, Sunday or public holiday, the deadline shall be extended to the end of the next working day at midnight.

3.2.5. When the deadline is set in working days, it is to be understood as excluding Saturdays, Sundays and public holidays.

3.2.6. The deadline applicable to the Contract Holder does not include the time required for the Client to carry out its verification operations and make its decision in accordance with Chapter 5.

3.3. Representation of the Client



Upon signature of the contract, the Client shall appoint one or more natural persons, who are authorised to represent it before the Contract Holder, for the purpose of executing the contract. Other natural persons may be authorised by the Client during the performance of the contract.

Such representative(s) shall be deemed to have sufficient powers to make, upon notification of their name to the Contract Holder within the time period required or set by the contract, the necessary decisions binding the Client.

3.4. Representation of the Contract Holder

3.4.1. Upon signature of the contract, the Contract Holder shall designate one or more natural persons, authorised to represent it before the Client, for the purpose of executing the contract. Other natural persons may be authorised by the Contract Holder during the performance of the contract.

Such representative(s) shall be deemed to have sufficient powers to make, upon notification of their name to the Client within the time required or set by the contract, the necessary decisions binding the Contractor.

3.4.2. The Contract Holder is required to promptly notify the Client of changes occurring during the performance of the contract and which relate to:

- the persons authorised to make commitments on its behalf,
- the legal form under which it conducts its activity,
- its business name or trade name,
- its address or registered office,
- the information it has provided for the acceptance of a subcontractor and the approval of its terms of payment,
- and, in general, all significant changes in the operation of the business that may affect the performance of the contract.

3.4.3. Implementation of services by a specially appointed person

Where it is provided in the contract that all or part of the services must be performed by a specially appointed person and that person is no longer able to perform this task, the Contract Holder must:

- notify the Client immediately and take all necessary measures to ensure the continued performance of the services,
- propose to the Client a replacement with at least equivalent skills and whose name and role shall be communicated to it within one month from the date of sending the notice mentioned in the preceding paragraph.

The replacement proposed by the Contract Holder shall be deemed accepted by the Client, if the latter does not object to said appointment within one month from the receipt of the communication mentioned in the previous paragraph. If the Client objects to the replacement, the Contract Holder shall have one month to propose another replacement.

The Client shall justify its decision to object to the replacement. The Client's opinions, proposals and decisions shall be notified according to the terms and conditions set out in Article 3.1.

In the absence of a proposal for a replacement by the Contract Holder or in the event of objection to the replacements by the Client, the contract may be terminated under the conditions set out in Article 42.

3.5. Co-contracting



In the event of default on the part of the representative of the consortium, the members of the consortium shall be required to appoint a replacement. Failing this, and at the end of a period of eight days running from the issue of the formal notice by the Client to make such an appointment, the contracting party listed in second position shall become the new representative of the consortium.

3.6. Subcontracting

3.6.1. If the Contract Holder wishes to subcontract a part of the contract, it shall ask the Client to approve each subcontractor and its terms of payment in advance and in writing.

3.6.2. The Contract Holder is required to communicate the subcontracting contract and any amendments thereto to the Client.

3.7. Purchase Orders

3.7.1. Purchase orders shall be sent by the Client to the Contract Holder.

3.7.2. When the Contract Holder considers it necessary to make observations in relation to a purchase order it has received on the basis of the requirements contained therein, it must notify the signatory of the purchase order concerned within fifteen days from the date of receipt thereof, failing which the observations will be barred.

3.7.3. The Contract Holder shall comply with the purchase orders that are sent to it, whether or not they have been subject to any observations on its part.

3.7.4. In the case of co-contracting, the purchase orders shall be sent to the representative of the consortium, who has sole competence to submit any observations to the Client.

3.7.5. If, upon completion a purchase order contract, the total of the Client's orders has not reached the minimum amount fixed by the contract, in terms of value or quantity, the Contract Holder shall be entitled to compensation equal to the profit margin that it would have realized on the services which remained to be carried out in order to reach this minimum.

The Contract Holder is also entitled to be compensated for any costs and investments incurred for the contract and strictly necessary for its performance that were not taken into account in the amount of services paid. It is incumbent upon the Contract Holder to provide the Client with all the justifications necessary to determine this part of the compensation within fifteen days following notification of the termination of the contract.

3.8. Service orders

3.8.1. Service orders shall be sent by the Client to the Contract Holder.

3.8.2. When the Contract Holder considers it necessary to make observations in relation to a purchase order it has received on the basis of the requirements contained therein, it must notify the signatory of the purchase order concerned within fifteen days from the date of receipt thereof, failing which the observations will be barred.

3.8.3. The Contract Holder shall comply with the service orders that are sent to it, whether or not they have been subject to any observations on its part.



However, unless the contract provides that the start of the services may be ordered within a period of more than six months from the signature of the contract, the Contract Holder may refuse to execute this order, if it is notified to it more than six months after the signing of the contract. The Contract Holder shall then have a period of fifteen days, starting from the date of issuance of its refusal decision to the Client, to propose a new start date for the services. At the end of this period, if it has not proposed any other date, it must perform the services on the requested date. In the event that the Client refuses the new date proposed to it, the Contract Holder may request the termination of the contract, under the conditions set out in Article 41.2. This termination must be accepted.

3.8.4. In the event of co-contracting, the service orders shall be sent to the representative of the consortium, who has sole competence to make any comments to the Client.

ARTICLE 4: CONTRACTUAL DOCUMENTS

4.1. Order of priority

In the event of contradiction between the provisions of the contractual documents, these shall take priority in the following order:

- the Contract and any amendments thereto, signed by the Contract Holder(s), on the one hand, and Bpifrance, on the other,
- the contract specifications containing the specific administrative and technical specifications of the contract or
 - the special administrative terms and conditions and any appendices thereto,
 - - the special technical terms and conditions and any appendices thereto,
- the general terms and conditions applicable to Bpifrance's information and communication contracts, subject of the contract, if it concerns this present document,
- the special subcontracting documents and their amendments, subsequent to the signature of the contract,
- the Contract Holder's technical and financial bid.

4.2. Documents to be submitted to the Contract Holder

Unless otherwise stipulated in the document (or documents), the contractual documents signed by the contracting party (or parties), on the one hand, and Bpifrance, on the other hand, shall take effect on the date of signature by all parties, without any need to provide notification of said signature.

ARTICLE 5: CONFIDENTIALITY - SECURITY MEASURES

5.1. Obligation of confidentiality

5.1.1. The Contract Holder and the Client who, during the execution of the contract, have knowledge of information or receive communication of documents or elements of any kind, reported as being of a confidential nature and relating, in particular, to the means to be implemented for performance of the contract, the operation of the services of the Contract Holder or the Client, are required to take all necessary measures to prevent this information or these documents or elements from being disclosed



to a third party that is not required to have knowledge of them. A party may not request that any information, documents or elements that said party itself has made public be kept confidential.

5.1.2. The Contract Holder must inform its subcontractors of the confidentiality obligations and the security measures incumbent upon it for the performance of the contract. It must ensure compliance with these obligations by its subcontractors.

5.1.3. This obligation of confidentiality does not cover information, documents or elements that are already within the public domain at the time at which the parties to the contract are made aware thereof.

5.2. Obligation to comply with legal provisions regarding banking secrecy, professional secrecy and confidentiality agreements

The Contract Holder is duly informed that the information relating to the Client, its clients and partners may be covered by professional secrecy, confidentiality agreements and/or banking secrecy, in accordance with Article L. 511-33 of the French Monetary and Financial Code and subsequent texts.

The Contract Holder must undertake to keep the information, documents and data to which it will have access and which are covered by said secrecy, entirely confidential. It must undertake to prevent, by all means, the reproduction and use of the documents, data or information, regardless of whether or not they are related specifically to the work entrusted under this contract.

The Contract Holder shall ensure in particular that this information will be accessible only to those who have a need to know and shall ensure that the persons concerned are duly and previously informed of these legal obligations. The Contract Holder shall apply this limitation of access to confidential information and this obligation of information to all of its staff, workers and subcontractors, as well as to the staff or workers of said subcontractors.

The Contract Holder must undertake, on its own behalf, and on behalf of its employees, subcontractors, and more generally any person related to it for any reason whatsoever, to respect - without any time limit - the banking secrecy and professional secrecy obligations. This obligation will continue, regardless of the end of the contract for any reason whatsoever, unless the information concerned has fallen into the public domain.

The Contract Holder must also undertake to have a confidentiality agreement signed by any person that may be required to have knowledge of such information and documents.

In the event of an injunction by a supervisory authority or an authorised judicial authority requesting disclosure of all or part of the information covered by banking secrecy, professional secrecy and contractual commitments, the Contract Holder must inform the Client of this injunction as soon as possible. The decision as to whether or not to disclose this Confidential Information will be the responsibility of the Client, which shall inform the Contract Holder of the decision made.

The Contract Holder shall ensure the compliance of its workers, agents or subcontractors, and more generally of any person related to it, with the confidentiality obligation laid down in this article.

The Contract Holder irrevocably undertakes to compensate for damages of any nature whatsoever, which may arise to the detriment of the Client or one of its officers or one of its workers, as a result of its own non-compliance with its obligations of confidentiality or non-compliance on the part of any persons having access to said data.

5.3. Protection of personal data



5.3.1. Each party to the contract is bound to comply with the rules on the protection of personal data, to which it has access for the purposes of the performance of the contract.

5.3.2. In the event of changes to the legislation on the protection of personal data during the performance of the contract, any modifications requested by the Client in order to comply with the new rules shall lead to the signing of an addendum by the parties to the contract.

5.3.3. To ensure this protection, it is the Client's responsibility to make the declarations and to obtain the necessary administrative authorisations to perform the services provided for in the specific contract documents.

5.4. Security measures

Where the services are to be performed in a place where security measures apply, particularly in areas protected under the legislative or regulatory provisions for the protection of national defence secrecy, these specific provisions must be indicated by the Client in the consultation documents. The Contract Holder is required to comply with these measures.

The Contract Holder may not claim, on this basis, any extension of the period of performance, nor any indemnity, or price supplement, unless the information was communicated to it only after the presentation of its bid and if it is able to establish that the obligations thus imposed on it necessitate additional time for performance of the services provided for in the contract or make performance of the contract more difficult or more expensive.

5.5. The Contract Holder shall notify its subcontractors that the obligations set out in this article are applicable to them and remains responsible for ensuring their compliance with said obligations.

ARTICLE 6: LABOUR PROTECTION AND WORKING CONDITIONS

6.1. The obligations incumbent on the Contract Holder are those provided for by the laws and regulations relating to the protection of the labour force and the working conditions of the country in which such labour force is employed. The Contract Holder is also bound by the provisions of the eight fundamental conventions of the International Labour Organization, when these are not incorporated into the laws and regulations of the country in which said labour force is employed.

The Contract Holder must be able to justify compliance with said provisions, during the performance of the contract and during the warranty period, upon request of the Client.

Comments: The eight fundamental Conventions of the ILO, ratified by France, are:

- the Convention on Freedom of Association and Protection of the Right to Organise (C 87, 1948);
- the Right to Organise and Collective Bargaining Convention (C 98, 1949);
- the Forced Labour Convention (C 29, 1930);
- the Convention on the Abolition of Forced Labour (C 105, 1957);
- the Equal Remuneration Convention (C 100, 1951);
- the Discrimination Convention (Employment and Occupation, C 111, 1958);
- the Minimum Age Convention (C 138, 1973);



- the Worst Forms of Child Labour Convention (C 182, 1999).

6.2. In the event of any change in the legislation on the protection of labour and working conditions during the performance of the contract, any changes requested by the Client, in order to comply with the new rules, shall give rise to the signing of an addendum by the parties to the contract.

6.3. The Contract Holder may ask the Client, due to the specific conditions for performance of the contract, to send, along with its opinion, the requests for exemptions provided for in the laws and regulations mentioned above.

6.4. The Contract Holder shall notify its subcontractors that the obligations set out in this article are applicable to them and remains responsible for ensuring their compliance with said obligations.

6.5. Rules of procedure

The Contract Holder must take the necessary steps to ensure that, whenever its staff are at the premises of the Client, they comply with the Client's rules and with the provisions applicable to external companies present at the said premises and especially those relating to health and safety. For this purpose, the Client undertakes to inform the Contract Holder of these provisions prior to performance of any service.

ARTICLE 7: ENVIRONMENTAL PROTECTION

7.1. The Contract Holder shall ensure that the services it performs comply with the legislative and regulatory requirements in force in terms of environment, personal health and safety, and preservation of the neighbourhood. The Contract Holder must be able to justify compliance with said provisions, during the performance of the contract and during the warranty period, upon request of the Client.

7.2. In the event of changes to the legislation on the protection of the environment during the performance of the contract, any modifications requested by the Client in order to comply with the new rules shall lead to the signing of an addendum by the parties to the contract.

ARTICLE 8: REPARATION OF DAMAGES

8.1. Damages of any kind, caused to the Client's staff or property by the Contract Holder, as a result of performing the contract, shall be the responsibility of the Contract Holder.

Damages of any kind, caused to the Contract Holder's staff or property by the Client, as a result of performing the contract, shall be the responsibility of the Client.



8.2. As long as the supplies remain the property of the Contract Holder, the latter shall be, except in the case of fault on the part of the Client, solely responsible for the damage suffered by these supplies for any reason other than exposure to artificial radioactivity or duly recognised natural disasters.

This provision does not apply in the case of additional equipment supplied by the Client to the Contract Holder's material that causes damage to the latter.

8.3. The Contract Holder shall guarantee the Client against damage or destruction caused by the material it supplies or the actions of its employees affecting the premises where the material is used, and this shall include any claims by neighbours.

ARTICLE 9: INSURANCE

9.1. The Contract Holder must take out insurance to cover its liability towards the Client and third parties that are victims of accidents or damage caused by performance of the services.

9.2. The Contract Holder must justify, within fifteen days of signing the contract and before commencing any performance thereof, that it is the policy holder of these insurance contracts, by means of a certificate establishing the extent of the liability insured.

At any time during the performance of the contract, the Contract Holder must be able to produce this certificate, upon the request of the Client and within a period of fifteen days from receipt of the request.

CHAPTER 2: PRICES AND SETTLEMENT OF ACCOUNTS

ARTICLE 10: PRICES

10.1. General rules

10.1.1. The prices are deemed fixed.

10.1.2. If fixed prices may be updated, the update coefficient is rounded up to the nearest thousandth.

10.1.3. The prices are deemed to include all the taxes or other charges that must be applied to the services, the costs of packaging, storage, wrapping, insurance and transportation to the place of delivery, the costs relating to the application of Article 17.1.2, as well as all other expenses necessary for the performance of the services, margins for risk and profit margins.

The costs of handling and shipping arising from the deferral or rejection of the services shall be borne by the Contract Holder.

10.1.4. Contracts comprising maintenance services



The remuneration of the Contract Holder for maintenance services includes the value of the parts or components, tools or ingredients required, as well as the costs of the labour assigned to them, including the travel allowances and the expenses required by the changes set out in Article 32.

Remuneration for maintenance services does not cover the following services, which remain the responsibility of the Client:

- the delivery or exchange of consumable supplies or accessories, painting and exterior cleaning of the equipment;
- the modifications requested by the Client to the specifications of the equipment provided for in the contract;
- the repair of operational malfunctions due to a fault of the Client or caused by the use of equipment that does not comply with the rules contained in the documentation provided by the Contract Holder;
- the repair of operational malfunctions caused by defects of the installation incumbent on the Client;
- the repair of operational malfunctions caused by the addition of equipment with a different source, by a person other than the Contract Holder or a person designated by the Contract Holder to carry out this addition.

10.2. Determination of settlement prices

10.2.1. Where the contract provides that the price to be paid is the result of the application of a regulation, fee structure, tariff, price, quotation, index, or of any other element established outside the contract, without specifying a date, the element to be taken into consideration is that which is in force:

- on the day of delivery of the services, if these are carried out within the deadline set by the Client or if the Client has not fixed a deadline,
- at the deadline set by the Client for the delivery of the services when the deadline set has been exceeded.

10.2.2. When the contract provides for a revision of the prices, these prices shall be revised on the date or according to the frequency stipulated in the specific contract documents.

However, when the price includes a significant proportion of raw materials or products, directly affected by the fluctuation of global prices, the prices shall be revised at least every three months from the date of signature of the contract. The price revision conditions are set by the specific contract documents.

The prices to be paid are those applicable on the date of delivery or the end of performance of the services.

10.2.3. When the prices are revisable, the coefficient for revision is rounded up to the nearest thousandth.

ARTICLE 11: DETAILS ON PAYMENT CONDITIONS



11.1. Instalments

When the contract establishes only the frequency of the instalments, the amount of each one of them shall be determined by the Client, on the basis of the description of the services performed and their amount, produced by the Contract Holder. Each instalment shall be subject to a payment request.

11.2. Payment request

Whenever the Contract Holder submits a payment request to the Client, it shall attach the documents necessary to justify the payment.

11.3. Content of the payment request

11.3.1. The payment request shall be dated. It shall mention the contract references and, where applicable:

- the amount of the services accepted, established in accordance with the provisions of the contract, excluding VAT and, where applicable, minus the reductions fixed in accordance with the provisions of Article 28.3,
- the breakdown of lump-sum prices and details of unit prices, where such details are provided in the specific contract documents, or where, taking into account the requirements of the contract, the services have been carried out in an incomplete or non-compliant manner,
- where payment is due at the end of certain stages of performance of the contract, the amount corresponding to the period in question,
- in the case of a joint-liability consortium, for each economic operator, the amount of the services provided by the economic operator,
- in the case of subcontracting, the nature of the services performed by the subcontractor, their total amount excluding tax, their amount inclusive of tax and, where applicable, the price variations established exclusive and inclusive of tax,
- where applicable, the compensation, premiums and deductions other than the guarantee deposit, established in accordance with the provisions of the contract.

11.3.2. In the event of performance of services at the expense and risk of the defaulting Contract Holder, the additional cost borne by the Client, corresponding to the difference between the price it should have paid to the Contract Holder for the performance of the services and the price actually paid for the performance thereof in place of the defaulting Contract Holder, shall be deducted from the sums due to the Contract Holder in respect of the services accepted.

11.3.3. The payment request shall specify the elements subject to VAT, distinguishing them according to the applicable rate.

11.3.4. Unit prices may be divided, in order to reflect ongoing services.

11.3.5. Lump sum prices may be divided, if the service or part of the service to which the price relates is not completed. A fraction of the price equal to the percentage of performance of the service is then calculated. In order to determine this percentage, the breakdown of the prices referred to in Article 11.4.1 shall be applied, if requested by the Client.

11.3.6. The Contract Holder shall prepare its payment request in line with the model or in accordance with the conditions established by the specific contract documents.



11.4. Calculation of the amount due by the Client for the services provided

11.4.1. The amount of the sums due may be established on the basis of joint reports.

11.4.2. When the contract provides for the payment of instalments, upon the completion of certain stages of the performance of the services, and it indicates the portion of the price to be paid upon completion of each of these stages, the payment request shall include:

- for each part of the contract executed, the corresponding portion,
- for each part of the contract undertaken, after agreement by the Client, a fraction of the corresponding portion, equal to the percentage of performance of the services in question.

11.5. Submission of the payment request

11.5.1. The submission of a payment request shall be made:

- either on the dates provided for in the contract, or
- after acceptance of the services, in accordance with the provisions of the contract, or
- at the beginning of each month for the services performed the previous month, in the case of services that are performed on a continuous basis; the Contract Holder shall then send the Client a monthly payment request establishing the total amount, fixed at the end of the previous month, of the sums it may claim as a result of the execution of the contract since the beginning thereof, or
- on the dates scheduled for the payment of instalments.

11.5.2. The payment request may indicate the supplies which, in accordance with the provisions of the contract or by mutual agreement between the parties, shall be paid, even though they remain in storage at the Contract Holder's premises.

11.6. Acceptance of the payment request by the Client

The Client shall accept or correct the payment request. It shall complete it, if necessary, by indicating the advances to be reimbursed, and the premiums and the reductions applied.

It shall agree on the amount of the sum to be paid and, if this is different from the amount indicated in the payment request, it shall notify the Contract Holder of said difference.

11.7. Payment for balance and final partial payments

11.7.1. The payment request shall be sent to the Client after the acceptance decision.

The payment request may also give rise to a final partial payment of the services performed, in the case where the specific contract documents provide for payments at the end of the performance of certain parts of the services provided for in the contract.

11.7.2. If, after having been given notice to do so, the Contract Holder does not produce its payment request within a period of forty-five days from acceptance of the services, the Client may proceed ex officio with the settlement, on the basis of a statement of account that it shall prepare. Said statement of account shall be sent to the Contract Holder.

11.7.3. In the event of a dispute relating to the amount of the sums due, the Client shall settle the sums it has accepted. After resolution of the disagreement, it shall, if necessary, pay a supplement, plus, if applicable, default interest, running from the date of the request submitted by the Contract Holder.

ARTICLE 12: PAYMENT IN THE CASE OF CO-CONTRACTING



12.1. Co-contracting provisions

12.1.1. In the case of a joint-liability consortium, each member of the consortium shall directly receive the sums relating to the performance of its own services.

12.1.2. In the case of a joint-and-several liability consortium, payment shall be made into a single account, opened in the name of the members of the consortium or the representative, unless the contract provides for a distribution of payments between the members of the consortium and indicates the terms of said distribution.

12.1.3. Irrespective of the form of the consortium, the representative has sole authority to submit the payment request to the Client. In the case of a joint-liability consortium, the payment request submitted by the representative shall be broken down into as many parts as there are members of the consortium to be paid separately. Each party shall enter the information necessary for paying the economic operator concerned.

12.1.4. The representative has sole authority to formulate or communicate the claims of the members of the consortium.

12.2. Provisions relating to subcontractors:

The services performed by the subcontractors, the payment terms of which have been approved by the Client, shall be paid for under the financial conditions provided for by the contract or by a special document.

CHAPTER 3: DEADLINES

ARTICLE 13: PERIOD OF PERFORMANCE

13.1. Start of the period of performance

13.1.1. The period of performance of the contract starts from its date of signature.

13.1.2. The deadline for performance of the purchase order starts from its date of notification.

13.1.3. The period of performance of a conditional stage starts from the date of notification of the confirmation decision.

13.2. Expiry of the period of performance

13.2.1. In the event of delivery or performance of the services at the Client's premises, the expiry date of the period of performance is the date of delivery or completion of the services.



13.2.2. Where the contract has established that the acceptance shall take place on the premises of the service provider, the expiry date of the period of performance is that provided for acceptance.

13.2.3. In the case of design services, the expiry date of the period of performance is the date of submission of the designs to the Client, in order to undertake the verification operations.

13.2.4. If the services are not completed by the expiry date of the validity of the contract, the period of performance of the services shall expire on the expiry date of the validity of the contract, with the exception of purchase orders issued during the validity of the contract.

13.3. Extension of the period of performance

13.3.1. When the Contract Holder is unable to meet deadlines for performance as a result of the Client's actions or due to an event of force majeure, the Client shall extend the period of performance. The period thus extended shall have the same effects as the contractual period.

13.3.2. In order to benefit from this extension, the Contract Holder shall inform the Client of the causes hindering the performance of the contract within the contractual period. It shall have, for this purpose, a period of fifteen days from the date on which these causes emerged or until the end of the contract, in the event that the contract expires in a period of less than fifteen days. It shall, by means of the same request, inform the Client of the duration of the requested extension.

13.3.3. The Client shall have a period of fifteen days from the date of receipt of the request of the Contract Holder in which to notify the Contract Holder of its decision, provided that the contract does not come to an end before the end of this period.

The request for extension cannot be refused when the delay is due to the intervention of the service provider, as part of a requisition order.

Furthermore, provided that the purpose of the contract itself is not to respond to a situation of extreme urgency resulting from unforeseeable situations, the request for extension cannot be refused when the delay is due to the intervention of the service provider, in the context of a contract concluded in an extreme urgency resulting from unforeseen circumstances.

The period of performance of the contract shall be extended by the time required to deliver the services performed upon request or for the needs of the contract concluded in a situation of extreme urgency.

13.3.4. No request for an extension of the period of performance may be made after the expiry of the contractual period for performance of the service.



ARTICLE 14: PENALTIES FOR DELAY

14.1. Penalties for delay

14.1.1. Penalties for delay start from, without any requirement to provide formal notice, the day after the day on which the contractual deadline for performance of the services has expired, subject to the provisions laid down in Articles 13.3 and 20.4.

This penalty is calculated by applying the following formula:

$$P = V * R / 1000$$

where: P = the amount of the penalty

V = the value of the deliverables on which the penalty calculation is based, this value being equal to the base price cost, before price variations and not including VAT, of the portion of the deliverables that is supplied late or of all the deliverables, if the delay in supplying one part makes the whole package unusable.

R = the number of days late.

14.1.2. Once the amount of penalties is determined, said penalties shall be reviewed. They shall then be deducted from the amount of the updated or revised contract, inclusive of tax.

14.1.3. The Contract Holder is exempt from penalties whose total amount does not exceed €1,000, excluding tax, for the entire contract.

14.2. Penalties for unavailability

14.2.1. Equipment is unavailable when, independently of the Client and outside of preventive maintenance work, its use is made impossible either due to the defective functioning of an element or device or of a function included therein, or due to the unavailability of another item of equipment to which it is linked by connections provided and maintained by the Contract Holder and to which it is subject for the performance of the work in progress at the time of the incident.

14.2.2. The unavailability starts:

- in the case of on-site maintenance, at the moment at which the Contract Holder receives the request for intervention. When the access of the Contract Holder's workers to the faulty equipment is delayed due to the Client, the unavailability shall be suspended until said access becomes effective;
- in the case of maintenance at the Contract Holder's premises, at the time of delivery of the defective item to the Contract Holder or its qualified representative, in a place provided for in the contract.

14.2.3. Any software included in the contract is considered unavailable when the use thereof is rendered impossible due to a malfunction noted by the Client. The unavailability applies to the last version implemented by the Client.

The Contract Holder undertakes to return to the Client the use of the defective software within a period set at twenty-four hours, in accordance with the provisions of Article 14.2.2., or, failing that, to provide the Client with a solution that has equivalent characteristics.



In the event that new defects are discovered in the software in question, the Contract Holder shall be required to make new corrections thereto under the same conditions.

During this period, and until use of the software is again possible, the materials which the Client is unable to make use of, due to the unavailability of a software programme, shall be deemed unavailable. The penalties shall then be calculated in accordance with the final paragraph of Article 14.2.6.

Remuneration for the right to use unavailable software shall be suspended.

14.2.4. The unavailability ends with the return to the Client of the elements in working order. However, when the repaired elements become unavailable again, for the same reasons, within eight hours of use following their repair, the duration of unavailability shall be deducted from the establishment of the initial unavailability.

14.2.5. The Contract Holder must inform the Client of the foreseeable duration of the unavailability when it exceeds the thresholds set in 14.2.6.

14.2.6. Except in the event of force majeure, when the observed unavailability exceeds the thresholds below, the Contract Holder shall be subject to penalties.

These thresholds are set at:

- eight business hours for on-site maintenance;
- fifteen consecutive days for maintenance at the Contract Holder's premises.

The penalty is calculated by applying the following formula:

$$P = (V * R) / 30;$$

P = the amount of the penalty;

V = the value of the monthly remuneration paid for maintenance;

R = the number of days late.

ARTICLE 15: INCENTIVES FOR EARLY COMPLETION OF THE SERVICES

The contract may provide for incentives for the early completion of either all the services, or certain parts of the services subject to specific deadlines or time limits set in the contract.

The incentive shall be paid inclusive of tax, without the Contract Holder being obliged to request it, along with the balance for the corresponding service. It is subject to the same payment rules as those relating to said balance.

CHAPTER 4: PERFORMANCE

ARTICLE 16: PLACES OF PERFORMANCE

16.1. At the request of the Client, the Contract Holder must inform the Client of the place of performance of the services. The Client may monitor performance on site.



Access to the places of performance is reserved for the Client's representatives only.

The persons designated by the Client for this purpose shall have free access to the areas concerned by the performance of the services provided for in the contract, in compliance with the safety instructions provided for the site. They shall be bound by the confidentiality obligations provided for in Articles 5.1 and 5.2.

16.2. If the Contract Holder interferes with the exercise of the Client's right of control during the performance of the contract, it shall incur the penalties provided for in Article 42.

ARTICLE 17: RESOURCES MADE AVAILABLE TO THE CONTRACT HOLDER

17.1. The provisions of this article apply when the Client makes available to the Contract Holder the necessary resources to perform the service.

Where these resources are the property of the Client, they shall remain freely available to the Contract Holder for the performance of the contract.

17.1.1. A joint report shall be prepared in order to establish the status of these resources at the time they are made available to the Contract Holder. This report shall be signed by both parties. It shall mention the value of these resources.

The effective date of the provision of the resources shall be that of the joint report.

17.1.2. The Contract Holder shall be responsible for the conservation, maintenance and use of any resource entrusted to it as soon as said resource is made available to it. It may only use these resources to fulfil the purpose of the contract.

17.1.3. At the end of the performance period or after termination of the contract, or at the end of the term fixed by the contract, the resources provided shall be returned to the Client. A joint report shall be prepared at the time these resources are returned to the Client. Where applicable, the costs related to returning the resources are borne by the Contract Holder.

17.1.4. When one of these resources made available is damaged, destroyed or lost, the Contract Holder is required to repair it, to replace it or to refund the residual value at the date of disappearance or loss.

17.1.5. If the Contract Holder does not comply with the obligations of points 2 and 4 of this article, the Client may suspend the payment of the amounts due under the contract, up to the amount of the estimated loss, until these obligations are fulfilled.

17.2. The Contract Holder is required to insure the resources entrusted to it, at its own expense, prior to them being made available to it and for as long as it makes use of them, and to be in a position, at any time during the execution of the contract, to justify that it has fulfilled said insurance obligation.

If the Contract Holder contravenes these requirements, the Client may take out the necessary insurance policy (or policies) five days after a formal notice has remained ineffective. The amount of the insurance premiums shall then be deducted from the sums due to the Contract Holder under the contract.

17.3. Regardless of the sanctions set out above, the contract may be terminated, under the conditions of Article 42, in the event of failure to submit, of misuse or of abusive use of the resources provided to the Contract Holder.



ARTICLE 18: PREPARATION OF PREMISES INTENDED FOR THE MATERIAL TO BE USED IN THE CONTRACT

The Client shall prepare, at its own expense, the premises intended for use of the material and, if necessary, following consultation with the Contract Holder, shall provide for the maintenance and fluid supply thereof..

The Client shall inform the Contract Holder of the availability of the premises. This information must be given at least fifteen days before the delivery of the equipment.

These arrangements must be completed before the scheduled date of delivery.

ARTICLE 19: STORAGE, PACKAGING AND SHIPPING

19.1. Storage

For contracts involving the supply of goods that become the property of the Client, the following provisions apply to the storage, packaging and transport of these goods.

19.1.1. If the specific contract documents provide for an obligation to store materials at the Contract Holder's premises, the Contract Holder shall assume responsibility as custodian during a period specified by the specific contract documents and starting from the receipt of said materials.

19.1.2. When the materials are stored at the Client's premises, the Client shall assume responsibility as custodian until the acceptance decision.

19.2. Packaging

19.2.1. The quality of the packaging must be appropriate to the conditions and modes of shipping provided for in the specific contract documents. The quality of the packaging is the responsibility of the Contract Holder.

19.2.2. The packaging remains the property of the Contract Holder.

19.3. Shipping

Materials are shipped to the place of delivery under the responsibility of the Contract Holder. The packaging, loading, stowage and unloading is done under its responsibility.

ARTICLE 20: DELIVERY

20.1. Any delivery made by the Contract Holder must be accompanied by a delivery order or a list, prepared separately for each recipient, and specifying in particular:

- the date of shipment;



- the reference to the order or the contract;
- the identification of the Contract Holder;
- the identification of the supplies delivered and, where applicable, their distribution by package;
- the number of manufacturing lot(s), if required by the regulations relating to labelling.

Each package must clearly indicate its order number as it appears on the delivery order or list. Each package shall contain an inventory of its contents.

20.2. The delivery is recorded through the issuance of a receipt to the Contract Holder or by the signature of the delivery order or list, a copy of which shall be kept by each party. If delivery is not possible, said impossibility to deliver must be mentioned on one of these documents.

20.3. If the provision of the designated premises results in exceptional maintenance difficulties not provided for in the specific contract documents, the resulting additional delivery costs shall be paid separately. These handling services shall give rise to an addendum.

20.4. A postponement of delivery may be granted to the Contract Holder when, except in the cases established for the extension of the period under Article 13, a cause beyond the control of the Contract Holder hinders performance of the contract within the contractual period.

A postponement of delivery may also be granted to the Contract Holder if it justifies special measures and precautions to reduce the environmental impact related to shipping and to the delivery conditions.

The postponement of delivery shall suspend, for a time equal to its duration, the application of penalties for delay.

The formalities for granting the suspension of delivery are the same as those for the extension of the period mentioned in Article 13.3.

No postponement of delivery may be requested by the Contract Holder for events occurring after the expiry of the period of performance of the contract, including any extensions.

ARTICLE 21: SOFTWARE UPDATES AND NEW VERSIONS — TECHNICAL DOCUMENTATION

21.1. Software updates and new versions

When the services include the delivery of standard software or specific software, they shall also include, throughout the term of the contract, the delivery of updates and the delivery of new versions. The price of these updates or new versions is included in the contract price.

21.2. Technical documentation

When delivering each item of hardware or software, the Contract Holder shall also deliver technical documentation in French indicating the operating instructions. The same applies for the delivery of each update or new software release.



The price of this technical documentation is included in the contract price.

This technical documentation shall indicate the composition and characteristics of the hardware or software, as well as their latest operating procedures. It must be sent at the latest at the time of delivering the hardware, software, update or new version, as applicable.

ARTICLE 22: IN-PLANT SUPERVISION

22.1. Where the specific contract documents provide for in-plant supervision of the performance of the services, the Contract Holder is required to comply with the provisions of this Article.

It must inform the Client of the plants or workshops in which the various phases of performance of the services will take place. It undertakes to provide the Client free access to these plants or workshops and to make available to the Client, at no cost, the means necessary to complete his mission.

22.2. The Contract Holder must inform the Client, in a timely manner, of all the operations for which the latter has declared that it wishes to be present; failing this, the Client may either request that they be restarted or refuse the services subject to these operations, outside of its control.

The Client must be notified immediately of any events likely to modify the planned implementation of the operations.

22.3. During the performance of the services, the Client shall inform the Contract Holder of any element of the service that is not satisfactory.

22.4. The exercise of supervision leaves the Contract Holder fully responsible and does not limit the Client's right to refuse the services recognized as defective at the time of verification.

22.5. The Client's agents and the persons authorised by it, who, by virtue of their duties, are informed of the means of manufacture or any other information relating to the Contract Holder, are subject to the obligation of confidentiality referred to in Article 5. 1 and 5.2. Their travel expenses and their remuneration, incurred as part of these supervision operations, shall be borne in full by the Client.

CHAPTER 5: CONFIRMATION OF PERFORMANCE OF THE SERVICES – WARRANTY

ARTICLE 23: INSTALLATION AND START-UP

The installation and start-up of the hardware and software shall be carried out by the Contract Holder.

For this purpose, it shall have one month from the contractual delivery date to perform the start-up. It shall submit a start-up report to the Client and inform the Client whether or not it will be present at the verification operations.



The period originally allocated for the start-up may be suspended or extended under the conditions set out in Article 13. 3.

ARTICLE 24: VERIFICATION OPERATIONS

24.1. Starting point of the period for verification operations

For the verifications that are carried out at the Contract Holder's premises, the starting point of the period is the date of notification of the document whereby the Contract Holder notifies the Client that the services are ready to be checked.

For the verifications carried out at the Client's premises, the starting point of the period is the date of notification of the start-up report to the Client by the Contract Holder.

24.2. Verification costs

24.2.1. Irrespective of the results of the verifications, the costs involved shall be borne by the Client for the operations which, in accordance with the provisions of the contract, must be performed at its own premises. In all other cases, they are borne by the Contract Holder.

However, where one of the parties has agreed to have tests carried out at its own premises which, in accordance with the specific contract documents, should have been carried out at the premises of the other party, the corresponding costs shall be borne by the other party.

24.2.2. The Contract Holder shall notify the Client of the date from which the services can be presented for these verifications.

24.3. Tests and testing

The Client may take hardware and software needed for the relevant tests from that supplied under the contract, to ensure, for example, that the tests carried out during the tender selection process concerned the same items as those that were actually delivered.

ARTICLE 25: QUANTITATIVE VERIFICATIONS

The purpose of quantitative verification is to check the conformity between the quantity delivered or the work carried out and the quantity or work ordered by the Client.



ARTICLE 26: QUALITATIVE VERIFICATIONS

26.1. The purpose of qualitative verification is to enable the Client to check in particular that the Contract Holder:

- has implemented the means defined in the contract in accordance with the requirements laid down therein;
- has carried out the services defined in the contract as being at its expense, in accordance with the contractual provisions.

For hardware and software, the Client shall verify that the services comply with the provisions of the contract and the test benches when the Client has chosen to use them.

26.2. The qualitative verification operations consist of two stages: the aptitude checks and regular deliverable checks.

26.2.1. Aptitude checks.

The aptitude check takes place after activation. The purpose of this verification is to establish that the services delivered or performed have the technical characteristics that make them fit to fulfil the functions specified in the specific contract documents.

This verification may also be carried out by running one or more programmes or test benches under the conditions laid down in the contract.

The Client shall take a decision in the manner specified in Article 27.2 below. If the aptitude checks give a positive result, the regular deliverable checks shall begin.

26.2.2. Regular deliverable checks.

The purpose of regular deliverable checks is to establish that the services provided are capable of providing a regular service under the normal operating conditions provided for in the specific contract documents.

The regularity of the service shall be observed over a period of one month, starting from the day on which the Client decides that its aptitude checks have achieved a positive result.

The service is deemed to be regular if the accumulated duration, over the month, of the unavailability attributable to each item of hardware does not exceed 2% of the effective period of use, which is from 8a.m. to 6p.m., Monday to Friday, excluding public holidays. The Client shall take a decision in the manner specified in Article 27.2 below.

ARTICLE 27: DECISIONS AFTER VERIFICATIONS

In the case of a contract with separate services, the delivery of each service shall be subject to separate verifications and decisions.

27.1. Upon completion of the quantitative verifications

At the end of the quantitative verification operations, if the quantity supplied or the services performed do not comply with the provisions of the contract, the Client may decide to accept them as they stand or to issue formal notice to the Contract Holder requesting that, within a time period stipulated by the Client, the Contract Holder:

- either takes back the surplus provided;
- or completes the delivery or the service.



The quantitative compliance of the services shall not preclude the performance of qualitative verification operations.

27.2. Upon completion of the qualitative verifications

27.2.1. Upon completion of the aptitude check:

The time period granted to the Client to proceed with the aptitude check and notify its decision is one month from the date of notification of the document in which the Contract Holder notifies the Client that the services are ready to be verified or, failing this, the date on which the Contract Holder notifies the Client of the start-up report.

If the Client is unable to reach a positive decision following its aptitude checks, the Client shall issue a decision to defer or reject the service in accordance with Article 28 below. In case of deferral, a new start-up may be executed at the Client's request.

27.2.2. Upon completion of the regular deliverable checks:

The Client shall have a maximum period of seven days to notify the Contract Holder in writing of its decision regarding the regular deliverable checks.

If the regular deliverable checks give a positive result, the Client shall make a decision to accept the services.

The acceptance may be limited to the elements the regular service of which has been verified, provided that they are able to be used in conditions deemed acceptable by the Client.

If the regular deliverable checks give a negative result, the Client shall issue a written decision notifying the Client of:

- deferral with verification of the regularity of service for a maximum additional period of one month; or
- acceptance with a price reduction; or
- rejection.

If the Client does not notify its decision within the period of seven days indicated in the first paragraph of Article 27.2.2, the result of the regular deliverable check shall be considered positive and the services shall be deemed accepted.

ARTICLE 28: ACCEPTANCE, DEFERRAL, REDUCTION AND REJECTION

28.1. Acceptance

The Client shall declare acceptance of the services if they fulfil the provisions of the contract. The acceptance shall take effect on the date of providing notification of the acceptance decision to the Contract Holder. In the case of tacit acceptance, the acceptance shall take effect at the end of the seven-day period mentioned in the first paragraph of Article 27.2.2.

28.2. Deferral

28.2.1. The Client, when it considers that services may only be accepted following certain adjustments, may decide to defer acceptance of the services by means of a reasoned decision. This decision shall invite the Contract Holder to present the updated services to the Client within a period of fifteen days.



The Contract Holder must make known its acceptance within ten days from the notification of the deferral decision. In the event of refusal by the Contract Holder or in the absence of declaration by the Contract Holder during this period, the Client shall have the option of declaring acceptance of the services with reduction or rejecting them, under the conditions set out in points 3 and 4 of this Article, within a period of fifteen days from the notification of the Contract Holder's refusal or from the expiry of the ten-day period mentioned above.

The absence of declaration by the Client beyond this period of fifteen days shall be deemed a decision to reject the services.

28.2.2. If the Contract Holder again presents the updated services, after the decision to defer the services, the Client shall again have the totality of the time period provided for to carry out the verifications of the services, as from their new presentation by the Contract Holder.

28.2.3. In the event that the verification operations are carried out at the Client's premises, the Contract Holder shall have a period of fifteen days from the notification of the deferral decision to remove the services subject to the postponement decision.

After this period, these services may be removed or destroyed by the Client, at the expense of the Contract Holder.

The deferred services, the custody of which at the Client's premises presents a danger or an intolerable inconvenience, may be immediately removed or destroyed, at the expense of the Contract Holder, after the latter has been informed.

28.3. Reduction

When the Client considers that the services, although not fully in compliance with the provisions of the contract, may nevertheless be accepted as they stand, it may accept them with a price reduction proportional to the extent of the imperfections noted. This decision must be justified. The Contract Holder cannot be notified of said decision until it has been given the opportunity to submit its observations.

If the Contract Holder does not submit any observations within fifteen days from the decision to accept the services with a payment reduction, it shall be deemed to have accepted said decision. If the Contract Holder makes observations within this period, the Client shall then have fifteen days to notify it of a new decision. In the absence of such notification, the Client is deemed to have accepted the Contract Holder's observations.

28.4. Rejection

28.4.1. When the Client considers that the services are not in compliance with the provisions of the contract and cannot be accepted as they stand, it shall declare partial or total rejection of them.

The rejection decision must be justified. The decision cannot be taken until the Contract Holder has been given the opportunity to submit its observations.

28.4.2. In the event of rejection, the Contract Holder is required to perform the service provided for in the contract again.



28.4.3. The Contract Holder shall have a period of one month from the notification of the rejection decision to withdraw the rejected services. When this period has elapsed, they may be removed or destroyed by the Client, at the expense of the Contract Holder.

The rejected services, the custody of which at the Client's premises presents a danger or an intolerable inconvenience, may be immediately removed or destroyed, at the expense of the Contract Holder, after the latter has been informed.

28.5. When the poor quality or defectiveness of the supplies or materials delivered by the Client, and included in the composition of the services, is the reason for the lack of conformity of the services with the provisions of the contract, the Client may not take a deferral, acceptance with reduction, or rejection decision:

- if the Contract Holder has, within a period of fifteen days from the date on which it had the opportunity to inspect said supplies, materials or equipment, informed the Client of the defects in the supplies, materials or equipment delivered, where reservations made concerning hidden defects are unable to be detected with the means at its disposal,
- and the Client has decided that the supplies, materials or equipment should nevertheless be used and has notified the Contract Holder of its decision.

ARTICLE 29: TRANSFER OF OWNERSHIP

The acceptance of supplies or materials acquired by the Client shall result in the transfer of their ownership.

The transfer of ownership of services subject to intellectual property rights shall be made, where applicable, pursuant to Article 38.

ARTICLE 30: WARRANTY

30.1. The services are covered by a minimum one-year warranty. The starting point of the warranty period is the date of notification of the acceptance decision.

30.2. Under this warranty, the Contract Holder undertakes to repair or replace, at its expense, any part of the service that is recognised as defective, except in the case where the defect is attributable to the Client.

This warranty also covers the staff travel costs, packing, packaging and transport of equipment required for repair or replacement, whether these operations are carried out at the place of supply or if the Contract Holder has arranged for the supply to be returned to its premises for this purpose.

When, during repair, the loss of use entails a disadvantage to the Client, the latter may request that equivalent replacement equipment be provided. The warranty period shall be extended by the period of loss of use.



30.3. The time period granted to the Contract Holder to carry out an adjustment or a repair which is requested of it shall be set by the specific contract documents or, failing that, by decision of the Client following consultation with the Contract Holder.

30.4. During the warranty period, the Contract Holder must perform the repairs required by the Client. It may ask for payment if it is able to justify that invoking the warranty is unfounded.

30.5. Extension of the warranty period

If, at the expiration of the warranty period, the Contract Holder has not carried out the required restoration, this period shall be extended until the restoration is completed.

30.6. Standard software compliance guarantee

The Contract Holder guarantees the compliance of the standard software with the specifications provided for in the specific contract documents.

As such, during the warranty period, the Contract Holder shall correct, free of charge, any operating malfunction of its software with respect to the contract specifications.

When the malfunction is found on standard software which was not published by the Contract Holder, the Contract Holder shall implement the warranty clauses provided for by the publisher of the standard software concerned, after duly informing the Client in advance about said clauses. The correction shall be made free of charge.

For the purposes of Article 30.6 herein, the Client shall establish a written report of these anomalies by providing all the information necessary for them to be identified by the Contract Holder. The Contract Holder must be notified of this report as soon as the anomaly is discovered by the Client.

30.7. Free software

Free software is used as it stands.

The Contract Holder shall not be liable for damages that may be caused by the Client's use of free software not published by the Contract Holder.

CHAPTER 6: PROVISIONS SPECIFIC TO MAINTENANCE, THIRD-PARTY APPLICATIONS MAINTENANCE AND IT FACILITIES MANAGEMENT

ARTICLE 31: DEFINITIONS

31.1. Maintenance and third-party applications maintenance



Maintenance refers to the preventive or corrective measures that enable hardware to be maintained in operational condition.

Third-party application maintenance refers to the services involved in maintaining a computer programme in a state that enables it to perform its function. These operational maintenance services are implemented as preventive or corrective measures. They may also relate to software development services.

These services may be performed at the Client's site or remotely at the Contract Holder's premises.

Hardware maintenance services may be included in a third-party application maintenance contract.

Preventative maintenance means the maintenance measures carried out to prevent the occurrence of anomalies.

Corrective maintenance means measures to correct anomalies.

Ongoing maintenance means maintenance measures designed to change or adapt one or more applications in order to integrate new functions, improve their functioning or take into account new legislative or regulatory provisions.

31.2. IT facilities management

31.2.1. IT facilities management means the outsourcing of the management or operating services of all or part of the Client's IT system.

IT facilities management may involve third-party application maintenance services or infrastructure hosting services.

Remote IT facilities management means all services provided at the Contract Holder's site.

On-site IT facilities management means all the services provided by the Contract Holder at the Client's site.

The specific contract documents define:

- the levels of service which the Contract Holder undertakes to achieve, i.e. the levels agreed upon for the quality indicators related to the services;
- the means implemented for such purpose, the conditions of execution, and the means for measuring the level of service achieved;
- the penalties applicable in case of non-compliance with the levels envisaged.

31.2.2. An IT facilities management service can be comprehensive or partial.

Comprehensive IT facilities management provides full support for the following functions:

- development or operation of all or part of the applications;
- operation of data processing centres.

Partial IT facilities management may cover IT operations or the management of applications.

31.2.3. The transition period.

The transition period is the period during which the Client transfers the technical responsibility for the functions that it performs or which are performed by a third-party service provider whose contract is approaching expiry, to the Holder of the new IT facilities management contract.



The transition period has a maximum duration of six months. This period begins on the date of notification of the contract. During the transition period, the Contract Holder migrates the services currently being performed by or for the Client to services that it provides.



31.2.4. Reversibility

Reversibility means the operation of returning responsibility for technical matters, whereby the Client takes over the services that it had previously entrusted to the Holder of the expiring IT facilities management contract.

Transferability means the operation of transferring responsibility for technical matters, whereby the Client assigns to a new contract holder, the services that it had previously entrusted to the Holder of the expiring IT facilities management contract.

The period of reversibility or transferability is the period covering the return or transfer of responsibility for technical matters defined above.

The reversibility or transferability plan is the document appended to the special administrative clauses that describes the duration and the conditions for implementing the reversibility or transferability.

ARTICLE 32: MAINTENANCE OF THE SERVICES

31.3. Maintenance conditions

If the specific contract documents provide for the maintenance of the delivered services, this shall include the interventions requested by the Client, in the event of malfunction of any of the elements that are the subject of the contract, as well as preventive maintenance.

Maintenance also covers the modifications made to the services delivered at the initiative of the Contract Holder. The Client shall be informed of these modifications and may object to them.

The Client may only perform maintenance operations not provided for in the contract with the agreement of the Contract Holder.

31.4. Access to the Client's premises for the maintenance operations

31.4.1. When maintenance is carried out at the Client's premises, the interventions shall take place within a specified time window, referred to as the intervention period. The time limit laid down for the contractor to respond to a request for intervention will only apply during the intervention period specified in the specific contract documents. The intervention period shall take place from 8 a.m. to 6 p.m., Monday to Friday, excluding public holidays.

31.4.2. The Client shall grant the Contract Holder's workers that are responsible for carrying out the maintenance, and which it has approved, access to its premises. The Client may withdraw its approval by means of a reasoned decision, which it shall notify to the Contract Holder. During their time at the Client's premises, the Contract Holder's workers are subject to the access and security rules established and communicated to the Contract Holder by the Client.

ARTICLE 33: TERMINATING PERFORMANCE OF THE SERVICES



At the end of the transition period, the Client may decide to terminate the performance of the services, either at its own initiative or at the request of the Contract Holder, provided that the service covering the transition period is identified in the specific contract documents and assigned an amount.

Terminating the performance of services entails the termination of the contract in accordance with Article 41.3.

ARTICLE 34: REVERSIBILITY AND TRANSFERABILITY

During the reversibility or transferability implementation period, the Contract Holder of the expiring contract shall provide, as appropriate, to the Client or the new Contract Holder, as necessary, access to the hardware and software, as necessary, provided that such access does not affect the ability of the Contract Holder of the expiring contract to provide the services that are the subject of the contract.

CHAPTER 7: USE OF THE RESULTS

ARTICLE 35: DEFINITION OF THE RESULTS

For the purposes of this chapter:

35.1. “Results” refers to all the elements, in whatever form, nature and medium, which result from the performance of the services that are the subject of the contract, such as, in particular, works, software, their updates or their new versions, databases, distinctive signs, domain names, information, websites, reports, studies, trademarks, designs or models, patentable or non-patentable inventions within the meaning of the French Code of Intellectual Property, and more generally all elements protected or not by intellectual property rights or by any other method of protection, such as know-how, business secrets, image rights concerning property or persons.

35.2. “Know-how” is a set of non-patented practical and tested information, resulting from experience, which is:

1. Secret, i.e. it is not generally known or easily accessible;
2. Substantial, i.e. it is important and useful for producing the results;
3. Identified, i.e. it is described in a sufficiently complete manner to enable verification that it fulfils the conditions of secrecy and substantiality.

35.3. Prior knowledge refers to all the elements, in whatever form, nature and medium, which result from the performance of the services that are the subject of the contract, such as, in particular, works, software, their updates or their new versions, databases, distinctive signs, domain names, information, websites, reports, studies, trademarks, designs or models, patentable or non-patentable inventions within the meaning of the French Code of Intellectual Property, and more generally all elements protected or not by intellectual property rights or by any other method of protection, such as know-how, business secrets, image rights concerning property or persons and which, on the date of notification of the contract, belong to or a licensed to the Contract Holder or to third parties. The prior knowledge shall be identified in the specific contract documents.



35.4. Third parties named in the contract means the persons named in the specific contract documents who enjoy the same rights and who are subject to the same obligations as the Client for the use of the results.

ARTICLE 36: PRIOR KNOWLEDGE REGIME

36.1. The conclusion of the contract does not imply the transfer of intellectual property rights or rights of any other nature relating to prior knowledge. The Client, the Contract Holder and the third parties named in the contract shall remain the Holders - each insofar as it is concerned - of the intellectual property rights or rights of any other nature relating to prior knowledge.

36.2. When the Contract Holder incorporates prior knowledge into the results or uses prior knowledge that is available under a free license scheme or where prior knowledge, without being incorporated into the results, is strictly necessary for the implementation of the results, the Contract Holder grants, on a non-exclusive basis, to the Client and to the third parties named in the contract, the right to use permanently or temporarily, in whole or in part, by any means and in any form, the prior knowledge strictly necessary for use of the results, for the purposes arising from the purpose of the contract. This right includes the right to reproduce, duplicate, load, display, store, execute, and represent the prior knowledge in order to use the results.

The granting of rights to prior knowledge is included in the contract price. The rights are granted for the same duration as the rights of use relating to the results.

The rights of modification, adaptation, and translation shall be exercised, as necessary, under the conditions provided for by the specific contract documents.

36.3. During the performance of the contract, the Contract Holder may not use or incorporate, without the Client's prior consent, any prior knowledge necessary for achieving the purpose of the contract that would be likely to limit or make it more costly to exercise the rights to the results.

ARTICLE 37: INTELLECTUAL PROPERTY RIGHTS REGIME RELATING TO STANDARD SOFTWARE

37.1. Scope of the rights granted



The Contract Holder grants, on a non-exclusive basis, to the Client and to the third parties named in the contract, for France and for the legal duration of the copyrights, the right to use or to make use of within the meaning of Article [L. 122-6 \(1°\)](#) of the French Intellectual Property Code, the standard software and related documentation for the purposes arising from the purpose of the contract, subject to any restrictive conditions provided for and accepted by the Client in the specific contract documents. In the event of publication on the internet, the rights shall be granted worldwide.

Comments:

Restrictive conditions may refer to the Contract Holder's standard licence conditions.

The Contract Holder may not reserve the exclusive right to make the corrections required for the use of the standard software in accordance with their intended purpose.

The Contract Holder authorizes the Client to extract and freely use the databases included, where applicable, in the results, in particular with a view to making public information available to be reused for free or for a fee.

37.2. Availability of the source codes

The source codes shall be accessible under the conditions laid down in the specific contract documents.

For contracts relating to the supply of applications software, a clause is stipulated whereby the Contract Holder undertakes to hand over the source codes to a third party who shall make them available to the Client in specific cases, in particular, in the event of failure on the part of the Contract Holder to maintain the software or in the event of cessation of its activity for whatsoever cause (legal or otherwise). The Contract Holder shall stipulate a third party for the benefit of the Client and the custodian shall then be liable towards the latter for access to the source codes.

37.3. Other provisions

37.3.1. In the event of termination of the contract for any reason whatsoever, the Client and the third parties named in the contract shall be revoked of all their rights of use relating to the results and prior knowledge, which are necessary for the purposes arising from the purpose of the contract.

37.3.2. The Client and the third parties named in the contract shall have the option to sub-licence or subcontract the implementation of the results on their own behalf, within the limits of the purpose of the contract.

37.3.3. For a period of two years, the Contract Holder shall be required to provide, at the request of the Client and the third parties named in the contract, the assistance essential to exercising the rights granted.

The Contract Holder must, in particular:

a) Submit, within a maximum period of two months from the receipt of the application, all drawings, plans, documents, templates and models necessary for the implementation of the results. This period may be extended by the Client, at the request of the Contract Holder, for items that cannot be made available without substantial additional work.

b) Have its technical advisers assist the Client and the third parties named in the contract and provide the temporary assistance of its specialised staff, and assist by communicating all manufacturing processes and know-how that may have been used by the Contract Holder in the performance of the services and which are necessary for using the results for the purposes arising from the purpose of the contract.



37.3.4. Rights guarantees.

1. The Contract Holder guarantees to the Client and to the third parties named in the contract the full and free enjoyment of any rights granted under the terms of the contract. As such, it warrants:

- that it is the owner of or holds the rights granted on the results and prior knowledge;
- that it shall indemnify the Client and any third party named in the contract, in the absence of any fault that is directly attributable to them, and without any benefit of seizure and sale or division, against any action, claim or form of opposition by any person whose right has been allegedly infringed by the use of the results and of prior knowledge pursuant to articles 36 and 37. If the Client or the third parties named in the contract are sued for infringement, unfair competition or free-riding, without fault on their part, as a result of the use of the results and prior knowledge in accordance with the provisions of Articles 36 and 37, they shall immediately inform the Contract Holder who can then join the legal proceedings,
- that it undertakes, in these cases, to provide to the Client and the to third parties named in the contract all the necessary assistance at its expense,
- that it undertakes, as it chooses, (i) to modify or replace the items in dispute, so that they cease to come within the scope of the complaint, while remaining compatible with the contract specifications, or (ii) to ensure that the Client and any third party named in the contract can have unlimited use of the disputed items at no extra cost, or (iii) if neither of these solutions is reasonably practicable, to reimburse the sums paid by the Client and the third parties named in the contract in connection with the disputed items and compensate them for detriment suffered.

In these cases, the Contract Holder shall pay for any damages which the Client and any third party named in the contract would, in the absence of any fault that is directly attributable to them, be ordered to pay for an act of counterfeiting, unfair competition or free-riding, due to the use of the results and prior knowledge in accordance with the provisions of Articles 36 and 37, as soon as the judgement pronouncing said damages becomes enforceable.

The Contract Holder shall guarantee the rights granted in respect of the results or prior knowledge, to the Client and to the third parties named in the contract, during any assignment or granting of rights relating to the results or prior knowledge.

2. The Contract Holder shall not be held liable for any claim relating to:

- the prior knowledge that the Client and the third parties named in the contract have provided to the Contract Holder for the performance of the contract,
- the elements incorporated into the results at the express request of the Client and any third parties named in the contract,
- modifications or adaptations made to the results, if the cause of the claim is based on a modification or adaptation made by the Client or the third parties named in the contract or at their express request.

ARTICLE 38: REGIME OF INTELLECTUAL PROPERTY RIGHTS OR RIGHTS OF ANY OTHER NATURE RELATING TO THE RESULTS, EXCLUDING STANDARD SOFTWARE

This article consists of two alternative options: A and B.

The specific contract documents shall indicate the option selected; otherwise, option A shall apply by default.

OPTION A. - Granting of usage rights on the results

Article A.38. - The Contract Holder grants, on a non-exclusive basis, to the Client and to the third parties named in the contract, the right to use the results or have the results used, as they stand or modified, permanently or temporarily, in whole or in part, by any means and in any form. This granting of usage



rights applies only to the needs arising from the purpose of the contract and for France. In the event of publication on the internet, the rights shall be granted worldwide.

This granting of rights covers the results as from their delivery subject to acceptance of the services.

The right to use the results does not cover the commercial uses of the results.

The Client and the third parties named in the contract shall not, by virtue of the contract, become owners of the rights relating to the results, including ownership of the inventions created, developed or used during the performance of the contract.

The fixed-rate price of this granting of rights is included in the contract price.

Comments:

The purpose of the contract must be clearly drafted in such a way that the different operating procedures envisaged for the results are identified or identifiable. The rights relating to the results shall in fact be granted for the sole needs arising from the purpose of the contract. In the case of software licences, the number of copies or users of the software, as well as future changes to this number for the Client, should be defined in the specific contract documents. If it is not possible to define a priori the conditions of use of the software for these future needs, option B, which provides for an assignment of rights, may be considered.

During the competitive tendering, the Client may authorize an alternative, inviting candidates to submit their bid with the option not selected a priori.

A. 38.1. Rights of the Client and the third parties named in the specific contract documents. A.38.1.1

Results protected by a literary and artistic property right.

1. The Contract Holder grants, on a non-exclusive basis, to the Client and to the third parties named in the contract, the pecuniary rights to the copyrights or similar rights relating to the results, for the needs resulting from the purpose of the contract. This granting of rights covers the results as from their delivery subject to acceptance of the services for France and for the legal duration of the copyrights or rights related to the copyright.

These rights shall comprise all the pecuniary rights of reproduction and performance and in particular the rights to reproduce, download, display, store, execute, adapt, arrange, correct, translate and incorporate and the right to communicate the results to third parties for non-commercial purposes, particularly for the purpose of providing information and promotional activities.

2. In addition, software-based performance rights include the right to evaluate, observe, test, analyse, and decompile for the needs resulting from the purpose of the contract, in accordance with the provisions of the French Intellectual Property Code. 3. The source codes of the software and the specific software and the documentation necessary for implementing the rights to the results shall be handed over simultaneously with the delivery of the object code. The source codes and the documentation are confidential.

A.38.1.2 Results protected by an industrial property right.

3. If the results give rise to the filing of an application for an industrial property title, such as, in particular, trademarks, patents, certificates of utility, supplementary protection certificates, semiconductor topographies, and designs and models, the Contract Holder shall grant the Client and the third parties named in the contract a non-exclusive licence to use the intellectual property rights relating to the results, for the purposes arising from the purpose of the contract.

4. This granting of rights covers the results as from their delivery subject to acceptance of the services for France and for the period of validity of the protection.



5. The price of this licence is included in the contract price for the industrial property titles or applications for industrial property titles that were registered after notification of the contract, and for those that were registered during the period between the first written consultation of the Client and the notification of the contract. The same applies to the granting of user rights relating to results that are not protected by industrial property titles or applications for industrial property titles.

6. The Contract Holder shall fulfil all the formalities required to make the operating license enforceable against third parties in all territories where the rights are granted. The cost of these formalities is included in the contract price.

A.38.1.3 Results falling under other protection regimes.

7. The Contract Holder authorizes the Customer and the third parties named in the contract to implement the know-how necessary for the use of the results or to use the results covered by know-how and business secrecy, subject to maintaining confidentiality.

8. The Contract Holder authorizes the Client and the third parties named in the contract to extract and to freely reuse the databases included in the results, in particular with a view to making public information available to be reused for free or for a fee.

9. The Contract Holder authorizes the Client and the third parties named in the contract to use the domain names that form part of the results, as well as the image of the goods and persons included in the results.

A. 38. 2. Common provisions

A.38.2.1 In general, the Contract Holder may not assert its rights or intellectual property rights of titles or any other rights to impede use the results, when this corresponds to the needs resulting from the purpose of the contract.

The Contract Holder may not, in particular, assert any right relating to the graphic appearance, the sequences and titles of menus or orders that would be likely to limit the need for evolution, adaptation, translation or incorporation of the results, particularly for the purposes of interoperability with other systems and software.

A.38.2.2 In the event of termination of the contract for any reason whatsoever, the Client and the third parties named in the contract shall be revoked of all their rights of use relating to the results and prior knowledge, which are necessary for the purposes arising from the purpose of the contract.

A.38.2.3 The Client and the third parties named in the contract shall have the option to sub-licence or subcontract the implementation of the results on their own behalf, within the limits of the purpose of the contract.



A.38.2.4 The Client and the third parties named in the contract may freely publish the results after informing the Contract Holder thereof, subject to any confidentiality obligations established by the specific contract documents and provided that this publication does not constitute a disclosure within the meaning of the French Intellectual Property Code.

The existence of restrictions on the right to publish the results does not preclude the publication of general information on the existence of the contract and the nature of the results. The limits to the power of publication do not preclude the possibility that the Client and the third parties named in the contract may assert their rights to communicate to a third party these results, in whole or in part, in compliance with Article 5.1. Any publication must mention the name of the Contract Holder and the authors.

A. 38.2.5. The parties shall inform each other of any changes they wish to make to the results in order to obtain relevant observations from the other party. They agree to the free disposal of minor modifications and corrections to the results.

A. 38.2.6. For a period of two years, the Contract Holder shall be required to provide, at the request of the Client and the third parties named in the contract, the assistance essential to exercising the rights granted.

The Contract Holder must, in particular:

c) Submit, within a maximum period of two months from the receipt of the application, all drawings, plans, documents, templates and models necessary for the implementation of the results. This period may be extended by the Client, at the request of the Contract Holder, for items that cannot be made available without substantial additional work.

d) Have its technical advisers assist the Client and the third parties named in the contract and provide the temporary assistance of its specialised staff, and assist by communicating all manufacturing processes and know-how that may have been used by the Contract Holder in the performance of the services and which are necessary for using the results for the purposes arising from the purpose of the contract.

The specific contract documents shall indicate the technical and financial conditions for exercising this assistance.

A.38.3 Rights guarantees

A.38.3.1 The Contract Holder guarantees to the Client and to the third parties named in the contract the full and free enjoyment of any rights granted under the terms of the contract. As such, it warrants:

- that it is the owner of or holds the rights granted on the results and prior knowledge;
- that it shall indemnify the Client and any third party named in the contract, in the absence of any fault that is directly attributable to them, and without any benefit of seizure and sale or division, against any action, claim or form of opposition by any person whose right has been allegedly infringed by the use of the results and prior knowledge of the Contract Holder pursuant to articles 36 and A. 38. If the Client or the third parties named in the contract are sued for infringement, unfair competition or free-riding, without fault on their part, as a result of the use of the results and prior knowledge of the Contract Holder in accordance with the provisions of Articles 36 and 38, they shall immediately inform the Contract Holder who can then join the legal proceedings,
- in these cases, that it shall provide the Client and the third parties named in the contract with all necessary assistance at its expense,
- that it undertakes, as it chooses, (i) to modify or replace the items in dispute, so that they cease to come within the scope of the complaint, while remaining compatible with the contract specifications, or (ii) to ensure that the Client and any third party named in the contract can have unlimited use of the disputed items at no extra cost, or (iii) if neither of these solutions is reasonably



practicable, to reimburse the sums paid by the Client and the third parties named in the contract in connection with the disputed items and compensate them for detriment suffered.

In these cases, the Contract Holder shall pay for any damages which the Client and any third party named in the contract would, in the absence of any fault that is directly attributable to them, be ordered to pay for an act of counterfeiting, unfair competition or free-riding, due to the use of the results and prior knowledge in accordance with the provisions of Articles 36 and 38, as soon as the judgement pronouncing said damages becomes enforceable.

The Contract Holder shall guarantee the rights granted in respect of the results or prior knowledge, to the Client and to the third parties named in the contract, during any assignment or granting of rights relating to the results or prior knowledge.

A.38.3.2 The Contract Holder shall not be held liable for any claim relating to:

- prior knowledge that the Client and the third parties named in the contract have provided to the Contract Holder for the performance of the contract; - the elements included in the results at the express request of the Client and the third parties named in the contract;
- modifications or adaptations made to the results, if the cause of the claim is based on a modification or adaptation made by the Client or the third parties named in the contract or at their express request.

A.38.4 Rights of the Contract Holder

A.38.4.1 The Contract Holder owns the rights and titles related to the results. The Contract Holder may use the results created under the contract, including for commercial purposes, subject to the agreement of the Client or the third parties named in the contract for the prior knowledge made available by them for the performance of the contract.

A.38.4.2 The Contract Holder undertakes to ensure that the use of the results does not compromise the rights or the image of the Client or the third parties named in the contract.

A. 38.4.3. The Contract Holder may publish the results subject to compliance with the confidentiality obligations set out in Article 5, supplemented where necessary by the specific contract documents, and the prior agreement of the Client or the third parties named in the contract if the results include prior knowledge made available by them for the performance of the contract.

Said publication must mention that the results have been funded by the Client.

A.38.5 Royalties

A.38.5.1 In the event of the commercial use of all or part of the results, where alone or incorporated into products or services, or in the event of total or partial granting of usage rights relating to the results, the Contract Holder shall pay a royalty to the Client.

The royalty shall be calculated on the basis of a base amounting to 30% of the Contract Holder's income from sale before tax, after deduction of manufacturing and marketing costs. These costs may be taken into account on a lump sum basis, where applicable, as a percentage of the amounts collected. In any case, when manufactured products incorporating the results are marketed, the base amount of the royalty may not be less than 2% of the amounts collected, excluding tax, ex works, packaging excluded. The amount of the royalty shall be equal to the result of multiplying this base by a weighting factor representing the share, in the total cost of development of the products or services marketed by the Contract Holder, of the amounts financed by the Client and the third parties named in the contract and the prior knowledge made available by them.

A.38.5.2 However, the royalty shall be fixed at a flat rate in the following cases:



- the basis for calculating the proportionate participation cannot be practically determined;
- there are no means for controlling the application of participation;
- the costs of the calculation and control operations are disproportionate to the results to be achieved;
- in the event of assignment of the rights relating to the software, in accordance with the provisions of Article L. 131-4 of the French Intellectual Property Code.

A.38.5.3 The specific contract documents determine the methods of calculating the royalty.

A.38.5.4 The Contract Holder shall pay the royalty for the useful life of all or part of the results.

A.38.5.5 In the event of sale, lease or concession, the Contract Holder must inform the Client within one month, as from the signing of the relevant contract. It must then send the Client, within one month of the end of each calendar half-year, a statement of the sales contracts, leases or concession agreements entered into during the period and a statement of the amounts to be taken into consideration during this period for calculating the payments.

These payments must be made by the Contract Holder within thirty days of receipt of a payment order notified by the Client. Beyond this period, the sums due will bear interest at the default interest rate. The Contract Holder shall be responsible for providing the Client with the means to verify the accuracy of the statements provided. The specific contract documents determine the methods of verification by the Client.

A.38.5.6 When the amount of the royalties paid by the Contract Holder equals, at constant economic conditions, the amount before tax of the sums paid by the Client under the contract, no further payment is to be made.

The amounts taken into account in this calculation are the amounts at constant economic conditions by reference to the consumer price index published by the National Institute of Statistics and Economic Studies (INSEE).

A.38.6 Commercial use of the results by the Client or the third parties named in the contract.

The provisions of this article shall apply only if the use of the results for commercial purposes is expressly provided for in the specific contract documents.

A.38.6.1 In addition to Articles A.38.1, A.38.2, A.38.3, A.38.4 and A.38.5, the Contract Holder authorizes the Client and the third parties named in the contract to commercially use the results for the duration, territory, operating procedures and fees defined in the specific contract documents.

The Contract Holder releases the Client and the third parties named in the contract from all legal and contractual obligations towards the employees or principals of the Contract Holder.



A.38.6.2 In return for this commercial use, the Client shall pay the Contract Holder a royalty, when the sum of the revenues from the commercial use of the results exceeds the amount paid by the Client. This royalty shall be calculated according to the terms of Article A. 38. 5, within the limit of an amount equal to the contract amount, at constant economic conditions.

OPTION B. — Exclusive assignment of the rights of the Contract Holder to the Client

Article B38. The Contract Holder assigns, on an exclusive basis, all the rights or titles of any kind relating to the results, allowing the Client to use them freely, including for commercial purposes, for the destinations specified in the specific contract documents.

The specific contract documents may provide that the Client, beneficiary of the assignment, may reassign or grant, on a non-exclusive basis, certain rights of use to the Contract Holder.

The territory, the duration, and the operating procedures of the transferred rights and the price are defined in the specific contract documents.

The Contract Holder retains sole liability for its employees and third parties acting on its behalf.

Comments:

Rights of use relating to the results shall be assigned to the Client only. The Client may assign certain rights to third parties.

The amount of the royalty owed by the Contract Holder, in respect of the commercial use that it may be authorized to make under the partial assignment or the non-exclusive concession, must be determined in the specific terms and conditions of the contract.

B.38.1 Rights of the Client

B.38.1.1 Results protected by a literary and artistic property right.

10. The Contract Holder shall assign to the pecuniary rights to the copyrights or similar rights relating to the results for the territory(ies), the duration, the operating procedures of the rights assigned and the price defined in the specific contract documents.

This assignment of rights covers the results, once disclosed, as from their delivery subject to acceptance of the services.

These rights shall comprise all the pecuniary rights of reproduction and performance and in particular the rights to adapt, arrange, correct, translate and incorporate and the right to communicate the results for commercial purposes, particularly for the operating procedures provided for in the contract documents.

11. For the operating procedures provided for in the specific contract documents, the right of reproduction includes, if necessary, the right to reproduce the results, without limitation of number, in all or part, as they stand or modified, by any means and in any medium including for unpredictable or unknown media at the date of signing the contract, namely with a view to commercial use, subject to remuneration to be agreed for future modes of use, not known on the date of signing the contract. 3. For the operating procedures provided for in the specific contract documents, the right of representation and distribution includes, if necessary, the right of communication to the public and the making available to the public of the results, in whole or in part, as they stand or modified by any means, methods and processes, including those unpredictable or unknown at the date of signing the contract, namely with a view to commercial use, subject to remuneration to be agreed for future operating procedures, not known on the date of signing the contract.

The source codes and the documentation necessary for the implementation of the rights on the results shall be delivered, on a usable medium, at the same time as the object code. The source codes are confidential.



B. 38. 1. 2. Results protected by an industrial property right.

12. The Contract Holder shall inform the Client of any result that has been identified as being reasonably likely to be protected by an industrial property right.

13. The Contract Holder shall authorize the Client to file any application or industrial property title to protect the results in the name of and at the expense of the Client. The Contract Holder shall make every effort to enable the Client to proceed with the filing of the industrial property titles. As such, the Contract Holder shall submit to the Client the information and authorizations necessary to obtain the industrial property rights relating to the results.

14. In the event that titles have been filed, the Contract Holder shall assign to the Client (i) the full ownership of the industrial property titles and applications for titles related to the results it has filed; (ii) the Paris Convention priority right that may be attached to the industrial property titles and applications for titles; (iii) the right to bring a lawsuit for any act of counterfeiting, unfair competition or free-riding prior or subsequent to the date of signing the contract.

B.38.1.3 Results falling under other protection regimes.

15. The Contract Holder shall assign exclusively, definitively and irrevocably to the Client the right to use the results covered by the know-how or business secrets.

16. The Contract Holder shall assign to the Client the right to exploit the databases included, if any, in the results.

17. The Contract Holder shall assign, on an exclusive basis, the domain names for which a patent has been filed.

B.38.2 Common provisions

B.38.2.1 In general, the Contract Holder may not assert its intellectual property rights or titles or any other rights to use the results.

B.38.2.2 In the event of termination of the contract for any reason whatsoever, the Client remains the assignee of all usage rights relating to the results.

B.38.2.3 The Contract Holder may freely publish the results subject to the provisions of Article 5 and the Client's prior agreement.

The existence of restrictions on the right to publish the results does not preclude the publication of general information on the existence of the contract and the nature of the results. Said publication must mention that the results have been funded by the Client.

B.38.2.4 For a period of two years, the Contract Holder shall be required to provide, at the request of the Client, the assistance essential to exercising the rights necessary for use of the results.

The Contract Holder must, in particular:

Submit, within a maximum period of two months from the receipt of the application, all drawings, plans, documents, templates and models necessary for the implementation of the results. This period may be extended by the Client, at the request of the Contract Holder, for items that cannot be made available without substantial additional work.

b) Assist by providing its technical advice and the temporary assistance of its specialised staff, as well as by communicating all manufacturing processes and know-how that are necessary for use of the results.



a) The specific contract documents shall indicate the technical and financial conditions for exercising this assistance.

B.38.3 Rights guarantees.

B.38.3.1 The Contract Holder shall guarantee the Client's full and complete enjoyment, free of any servitude, of the intellectual property rights or rights of any kind relating to the results which are assigned under the terms of the contract.

The Contract Holder warrants:

- that it is the owner of the intellectual property rights in the applications for titles and the titles which it assigns;
- that it is the owner of or holds the rights granted on prior knowledge
- that it has not granted any licence, collateral, pledge or any other right to the benefit of a third party, over the results, titles and applications for titles;
- that there is no lawsuit, pending or imminent, and that it has not been informed of any lawsuit that may be brought concerning the rights subject to the assignment;
- that it shall indemnify the Client, in the absence of any fault that is directly attributable to it, and without any benefit of seizure and sale or division, against any action, claim or form of opposition by any person whose right has been allegedly infringed by the use of the results and prior knowledge of the Contract Holder pursuant to articles 36 and B. 37. If the Client is sued for infringement, unfair competition or free-riding, without fault on its part, as a result of the use of the results and prior knowledge of the Contract Holder in accordance with the provisions of Articles 36 and B. 38, it shall immediately inform the Contract Holder who can then join the legal proceedings,
- in these cases, that it shall provide the Client with all necessary assistance at its expense,
- that it undertakes, as it chooses, (i) to modify or replace the items in dispute, so that they cease to come within the scope of the complaint, while remaining compatible with the contract specifications, or (ii) to ensure that the Client can have unlimited use of the disputed items at no extra cost, or (iii) if neither of these solutions is reasonably practicable, to reimburse the sums paid by the Client in connection with the disputed items and compensate them for detriment suffered.

In these cases, the Contract Holder shall pay for any damages which the Client would, in the absence of any fault that is directly attributable to it, be ordered to pay for an act of counterfeiting, unfair competition or free-riding, due to the use of the results and prior knowledge of the Contract Holder in accordance with the provisions of Articles 36 and B. 38, as soon as the judgement pronouncing said damages becomes enforceable.

B.38.3.2 The Contract Holder shall not be held liable for any claim relating to:

- the prior knowledge that the Client has provided to the Contract Holder for the performance of the contract;
- the elements incorporated into the results at the express request of the Client;
- modifications or adaptations made to the results, if the cause of the claim is based on a modification or adaptation made by the Client or at its express request.

B.38.4 Rights of the Contract Holder

B.38.4.1 The Contract Holder undertakes, as from the date of assignment of the rights, not to grant a licence, use or exploit, in any way whatsoever, the results transferred.



B.38.4.2 The Contract Holder shall retain its own rights, including usage rights, relating to the prior knowledge incorporated into the results in accordance with the provisions of Article 36. The Contract Holder may only use the results, including commercially, with the Client's prior written consent, in accordance with the conditions provided for in the specific contract documents.

CHAPTER 6: TERMINATION

ARTICLE 39: GENERAL PRINCIPLES

The Client may terminate the performance of the services which are the subject of the contract before the completion of said services, either at the request of the Contract Holder under the conditions provided for in Article 41, or due to the fault of the Contract Holder under the conditions provided for in Article 42, or in the case of the special circumstances mentioned in Article 40.

The decision to terminate the contract shall be notified to the Contract Holder. Subject to the special provisions mentioned below, termination shall take effect on the date set in the decision to terminate the contract or, failing that, on the date of its notification.

ARTICLE 40: TERMINATION DUE TO EVENTS EXTERNAL TO THE CONTRACT

40.1. Death or civil incapacity of the Contract Holder.

In the event of death or civil incapacity of the Contract Holder, the Client may terminate the contract or accept its continuation by the successors or the administrator. A transfer amendment shall be established for this purpose.

The termination, if pronounced, shall take effect on the date of death or civil incapacity. It does not entitle the Contract Holder or its successors to any compensation.

40.2. Insolvency proceedings and bankruptcy

In the event of insolvency proceedings, if the court appointed administrator states that he is unable to fulfil the contractor's obligations, under the conditions set out in Article L. 622-13 of the French Code of Commerce, the contract is terminated.

In the event of the Contract Holder's bankruptcy, if the court appointed liquidator states that he is unable to fulfil the contractor's obligations, under the conditions set out in Article L. 641-10 of the French Code of Commerce, the contract is terminated.

The termination, if pronounced, shall take effect on the date of the event. It does not entitle the Contract Holder to any compensation.

40.3. Physical incapacity of the Contract Holder



In case of manifest and long-term physical incapacity of the Contract Holder, compromising the smooth performance of the contract, the Client may terminate the contract.

Termination of the contract shall not entitle the Contract Holder to any compensation.

ARTICLE 41: TERMINATION DUE TO EVENTS RELATED TO THE CONTRACT

41.1. Difficulty in the performance of the contract

Where the Contract Holder encounters, during performance of the services, any particular technical difficulties the resolution of which would require the implementation of means that are disproportionate to the value of the contract, the Client may terminate the contract at its own initiative or at the request of the Contract Holder.

When the Contract Holder is unable to perform the contract due to an event of force majeure, the Client shall terminate the contract.

41.2. Late service order

When the termination is pronounced at the request of the Contract Holder pursuant to Article 3.8.3, the latter shall be compensated for the costs and investments it may have incurred for the contract and strictly necessary for its performance.

41.3. Terminating performance of the services

When termination of the performance of the services is declared pursuant to Article 33, the Client shall terminate the contract.

Termination of the contract shall not entitle the Contract Holder to any compensation.

ARTICLE 42: TERMINATION DUE TO FAULT OF THE CONTRACT HOLDER

42.1 The Client may terminate the Contract due to fault by the Contract Holder in the following cases:

- a) The Contract Holder contravenes any legal or regulatory obligations relating to the work or the protection of the environment.
- b) Resources have been made available to the Contract Holder, which finds itself in one of the situations provided for in Article 17.
- c) The Contract Holder has not fulfilled its obligations within the contractual deadlines.
- d) The Contract Holder has obstructed the performance of an inspection by the Client under Articles 16 and 22.
- e) The Contract Holder has subcontracted work in contravention of the laws and regulations relating to subcontracting, or it has not fulfilled the obligations relating to subcontractors set out in Article 3; 6.
- f) The Contract Holder has not produced the insurance certificates under the conditions provided for in Article 9.
- g) The Contract Holder declares, irrespective of the cases provided for in Article 40: 1, that it is unable to fulfil its obligations.



- h) The Contract Holder has not communicated the changes mentioned in Article 3. 4. 2 and these changes are likely to compromise the smooth execution of the contract.
- i) The Contract Holder has engaged in fraudulent acts during the performance of the contract.
- j) The Contract Holder or the subcontractor does not fulfil the obligations relating to confidentiality, protection of personal data, and security, in accordance with Article 5.
- k) In the case of maintenance services, the unavailability is established for thirty consecutive days.
- l) The use of the results by the Client is seriously compromised, due to the Contract Holder's delay in the performance of the contract.
- m) Subsequent to the signing of the contract, the Contract Holder has been prohibited from practising any industrial or commercial profession.
- n) Subsequent to the signing of the contract, the information or documentation produced by the Contract Holder, in support of its application or required prior to the award of the contract, prove to be inaccurate.
- o) The replacement of the person designated to ensure the performance of the services is disqualified, failing the appointment of a new replacement within one month, or disqualification of said replacement within one month.

42.2. Except in the cases provided for in i, m and n of 42.1 above, a formal notice, together with a period of performance, must have been previously notified to the Contract Holder and have remained ineffective.

As part of the formal notice, the Client shall inform the Contract Holder of the proposed penalty and invite it to submit its comments.

42.3. The termination of the contract does not preclude the exercise of civil or criminal proceedings that may be brought against the Contract Holder.

ARTICLE 43: TERMINATION ACCOUNT

43.1. The termination of the contract is subject to a termination account, which shall be prepared by the Client and notified to the Contract Holder.



43.2. The termination account prepared following a termination decision made under Article 31 shall include:

43.2.1. Debited to the Contract Holder:

- the amount of the sums paid as an advance, instalment, final partial payment and balance,
- the value, fixed by the contract and any amendments thereto, of the resources entrusted to the Contract Holder that the latter is unable to return as well as the value of recovery of the resources which the Client assigns to the Contract Holder amicably,
- the amount of the penalties;

43.2.2. Credited to the Contract Holder:

43.2.2.1. The value of the services provided to the Client, namely:

- the contractual value of the services received, including, where applicable, default interest;
- the value of any services provided at the request of the Client, such as the storage of supplies.

43.2.2.2. Expenses incurred by the Contract Holder for the performance of services that have not been provided to the Client, to the extent that these expenses have not been previously recovered or cannot be subsequently recovered, namely:

- the cost of materials and items supplied for the performance of the contract,
- the cost of the facilities, equipment and tools supplied for the performance of the contract,
- other expenses of the Contract Holder directly related to the performance of the contract.

43.2.2.3. Staff expenses for which the Contract Holder provides proof that they result directly and necessarily from the termination of the contract.

43.2.2.4. More generally, all damages suffered as a result of the termination by the Contract Holder and its subcontractors and suppliers, where applicable.

43.3. The termination account following a termination decision made under Article 42 shall include:

43.3.1. Debited to the Contract Holder:

- the amount of the sums paid as an advance, instalment, final partial payment and balance,
- the value, fixed by the contract and any amendments thereto, of the resources entrusted to the Contract Holder that the latter is unable to return as well as the value of recovery of the resources which the Client assigns to the Contract Holder amicably,
- the amount of the penalties;
- where applicable, any additional costs arising from contracts entered into by the Contract Holder at its own risk and expense in the circumstances specified in Article 35.

43.3.2. Credited to the Contract Holder:

- the contractual value of the services received, including, where applicable, default interest,
- the value of any services provided at the request of the Client, such as the storage of supplies.

43.4. The settlement statement following a termination decision made under Article 40 or following a request by the Contract Holder shall include:

43.4.1. Debited to the Contract Holder:

- the amount of the sums paid as an advance, instalment, final partial payment and balance,
- the value, fixed by the contract and any amendments thereto, of the resources entrusted to the Contract Holder that the latter is unable to return as well as the value of recovery of the resources which the Client assigns to the Contract Holder amicably,
- the amount of the penalties;

43.4.2. Credited to the Contract Holder:



- the contractual value of the services received, including, where applicable, default interest,
- the value of any services provided at the request of the Client, such as the storage of supplies.

43.5. The Client must provide notification of the statement of account to the Contract Holder no later than two months after the effective date of termination of the contract.

In this case, the penalties for late payment shall be applied up to and including the day before the effective date of termination.

ARTICLE 44: DELIVERY OF SERVICES AND MATERIAL RESOURCES PERMITTING PERFORMANCE OF THE CONTRACT

In the event of termination, the Client may require the Contract Holder:

- to deliver the services in progress, as well as the materials and objects in its possession for the performance of the contract,
- to deliver the material resources specifically intended for the contract,
- to take precautionary measures, in particular storage or security operations.

The Client shall inform the Contract Holder or its successors, upon notification of the termination of the contract, by indicating the deadline for delivering these items by the Contract Holder and the conditions for storing them pending said delivery.

In the event of termination due to fault of the Contract Holder, this Article shall be applied at the expense of the Contract Holder.

ARTICLE 45: PERFORMANCE OF THE SERVICE AT THE EXPENSE AND RISK OF THE CONTRACT HOLDER

45.1. On the condition that it is provided for in the specific contract documents and expressly mentioned in the decision to terminate the contract, the Client may have a third party perform the services provided for in the contract, at the expense and risk of the Contract Holder, either in the event of non-performance by the Contract Holder of a service which, due to its nature, cannot incur any delay, or in the event of termination of the contract declared due to fault on the part of the Contract Holder.

45.2. If it is not possible for the Client to obtain, under acceptable conditions, services that are exactly in accordance with those provided for in the specific contract documents, it may substitute them for equivalent services.

45.3. The Contract Holder of the terminated contract is not allowed to participate, either directly or indirectly, in the performance of services carried out at its own expense and risk. It must, however, provide all the information collected and the means implemented in the performance of the initial contract and which are necessary for the performance of said contract by the third party appointed by the Client.

45.4. The increase in expenses, in comparison to the contract prices, resulting from the performance of the services at the expense and risk of the Contract Holder, shall be borne by the Contract Holder. The Contract Holder shall not benefit from any decrease in expenses.



CHAPTER 7: DISPUTES AND LITIGATION

ARTICLE 46: DISPUTES BETWEEN THE PARTIES

46.1. The Client and the Contract Holder shall make every effort to settle any dispute concerning the interpretation of the provisions of the contract or the performance of the services which are the subject of the contract in an amicable manner.

46.2. Any dispute between the Contract Holder and the Client must be the subject of a letter of complaint from the Contract Holder setting out the reasons for its disagreement and indicating, where applicable, the amount of the sums claimed. This letter must be communicated to the Client within two months, starting from the day the dispute arose, failing which the complaint will be barred.

46.3 The Client shall have a period of two months, starting from receipt of the letter of complaint, to send notice of its decision. The absence of a decision within this period shall be deemed as rejection of the claim.

ARTICLE 37: ATTRIBUTION OF JURISDICTION

If however, the parties cannot reach an agreement, for any dispute that may arise relating to the interpretation or performance of the contract, exclusive jurisdiction is assigned to the Commercial Court of Paris, notwithstanding multiple defendants or third-party claims, even for urgent or preventive measures, by application for summary proceedings or by petition.
